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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: DISAPPEARANCES AND SUMMARY EXECUTIONS

Letter dated 6 April 2001 from the Permanent Representative of Singapore to the United Nations Office at Geneva addressed to the Chairperson of the Commission on Human Rights

I have the honour to refer to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2001/9), which was submitted to the Commission on Human Rights at its fifty-seventh session.

I enclose a letter dated 6 April 2001* I sent to the Special Rapporteur and would request that it be circulated as an official document of the fifty-seventh session of the Commission on Human Rights under item 11 (b).

(Signed): SEE Chak Mun
Ambassador
Permanent Representative

* Reproduced as received, in the language of submission only.

Annex

PERMANENT REPRESENTATIVE
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6 April 2001

Ms Asma Jahangir
UN Special Rapporteur
on Extrajudicial, Summary or Arbitrary Executions
c/o Office of the United Nations High Commissioner
for Human Rights
Palais Wilson
51 rue des Pâquis
1201 Geneva

Dear Ms Jahangir

With reference to your report on Extrajudicial, Summary or Arbitrary Executions (E/CN.4/2001/9), which was submitted to the 57th Session of the Commission on Human Rights (CHR) pursuant to CHR resolution 2000/31, I would like to make the following comments.

(a) In para 94, it was said that the absence of the death penalty in the Rome Statute of the International Criminal Court is an example of the growing international consensus in favour of abolition. This has ignored the fact that in his statement to the plenary of the Rome Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, the President of the Conference declared that the debate at the Conference on the issue of which penalties should be applied by the Court showed that there is no international consensus on the inclusion or non-inclusion of the death penalty, and further that not including the death penalty in the Rome Statute would not in any way have a legal bearing on national legislations and practices with regard to the death penalty, nor should it be considered as influencing, in the development of customary international law or in any other way, the legality of penalties imposed by national systems for serious crimes.

(b) Consensus in the international community is not a question of 50% plus one. The statement that more than half of all countries have abolished the death penalty glosses over the fact that a significant number of countries retain it among their laws. The Second Optional Protocol to the International

Covenant on Civil and Political Rights has only been ratified by a minority of states. There is therefore no international consensus either for or against capital punishment. This view was reflected in the joint statement contained in the document E/CN.4/2000/162 in which 51 delegations disassociated themselves from CHR resolution 2000/65. This view was also reflected in (i) the joint statement contained in ECOSOC document E/1999/113 in which 50 delegations disassociated themselves from CHR resolution 1999/61, (ii) the joint statement contained in document E/1998/95 in which 54 delegations disassociated themselves from CHR resolution 1998/8, (iii) the joint letter contained in document E/CN.4/1998/156 in which 51 delegations expressed their reservations prior to the adoption of CHR resolution 1998/8 and (iv) the joint statement contained in document E/1997/106 in which 34 delegations disassociated themselves from a similar CHR resolution 1997/12.

(c) The Report also completely ignores the position of those delegations that the death penalty is primarily a criminal justice issue, and therefore is a question for the sovereign jurisdiction of each country. Nor does it consider the point that the right to life is not the only right, and that it is the duty of societies and governments to decide how to balance competing rights against each other.

2 I sincerely hope that the above comments would be taken into consideration in future reports.

With best wishes

Yours sincerely

SEE CHAK MUN